

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 90-0009

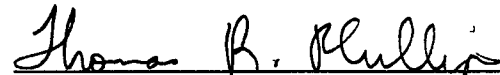
**ADOPTION OF RULES FOR THE COURT OF APPEALS
FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS
FOR RECEIVING AND FILING
ELECTRONICALLY TRANSMITTED COURT DOCUMENTS**

ORDERED:


At the request of the Court of Appeals for the Fifth District of Texas at Dallas the attached rules are adopted governing the procedure for the Clerk of that Court to receive and file electronically transmitted court documents. TEX. GOV'T CODE §§ 51.803, 51.807.

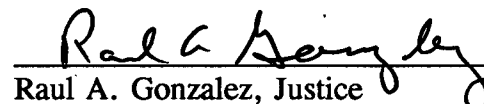
This Order shall be effective when recorded in the Minutes of the Court of Appeals for the Fifth District of Texas at Dallas.

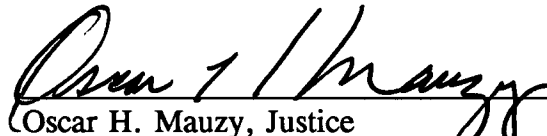
SIGNED AND ENTERED this 9th day of October, 1990.

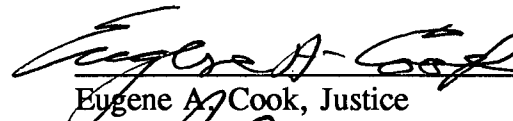

Thomas R. Phillips, Chief Justice


Franklin S. Spears, Justice

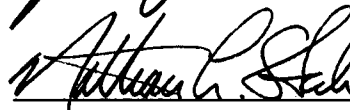

C. L. Ray, Justice


Raul A. Gonzalez, Justice


Oscar H. Mauzy, Justice


Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice



In The
Court of Appeals
Fifth District of Texas at Dallas

ORDER

**ORDER ESTABLISHING A SYSTEM
FOR ELECTRONIC FILING OF DOCUMENTS
IN THE COURT OF APPEALS,
FIFTH DISTRICT OF TEXAS AT DALLAS**

The Court of Appeals, Fifth District of Texas at Dallas, hereby adopts the following system for the electronic filing of documents by the Clerk of the Court.

1. The Clerk of the Court, or any Deputy Clerk, is authorized to accept for filing via electronic transmission: (a) motions to extend the time to file a cost bond or equivalent; (b) motions to extend the time to file the record, the transcript, or the statement of facts; and (c) motions to extend the time to file a motion for rehearing. The Clerk of the Court, or any Deputy Clerk, is authorized to transmit electronically any opinion that has already issued, but not any opinion at the time of its issuance. No process issued by this Court pursuant to Texas Rule of Appellate Procedure 17 shall be electronically transmitted.

2. Documents electronically transmitted for filing will be received by the Clerk on a plain paper facsimile and printed by a laser printer, thereby rendering the copy of archival quality. No document printed on thermal paper shall be filed.

3. The Clerk of the Court shall collect the following fees in connection with electronic transmissions:

Outbound Facsimile Service (Continental US Except Alaska)

\$5.00 for the first page, plus \$2.00 per additional page, plus charge for call, except for local calls.

Outbound Facsimile Services (World-wide, Except Above)

\$6.50 for the first page, plus \$2.00 per additional page, plus charge for call.

Inbound Facsimile Service

\$5.00 for the first 10 pages, plus 50 cents for each additional page per transmission or request.

Transmissions to Other State Appellate Courts

No fee shall be charged to other courts of appeals, the Supreme Court of Texas, or the Texas Court of Criminal Appeals.

4. Upon any electronic transmission, the Clerk of the Court shall prepare an invoice and shall mail it, as soon as practicable, to the party requesting the transmission service. Payment shall be due 10 days after the receipt of the invoice. If a party requesting the transmission service is a party to an appeal pending before the Court, failure to pay the fee promptly may result in the striking of the motion electronically transmitted. If the party is an appellant, failure to pay the fee promptly may result in the dismissal of the appeal.

5. An electronically transmitted document accepted for filing will be recognized as the original record for file or for evidentiary purposes when it bears the Clerk's official date stamp. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date on which an electronically transmitted document shall be deemed to have been filed shall be the date on which the electronic transmission of the entire document is complete, as determined by the date shown on the last page of the document.

6. Local rules governing implementation of this electronic filing system are hereby adopted as follows:

A. Every document electronically transmitted for filing shall conform to the requirement for filing established by Texas Rule of Appellate Procedure 4, *i.e.*, shall be typewritten or printed, on paper measuring approximately 8 1/2 x 11 inches, signed by an attorney of record in his individual name, with his State Bar of Texas identification number, address, telephone number and telecopier number. Any document filed by a party who is not an attorney shall meet all the foregoing requirements except for a State Bar of Texas identification number. The quality of the original hard copy shall be clear and dark enough to legibly transmit. All copies other than the original electronically transmitted document as may be required by Texas Rule of Appellate Procedure 4(c) or by the Court's local rules shall be forwarded to the Court on the same day that the document has been sent to the Court by facsimile machine.

B. The sender shall maintain the original hard copy with the original signature affixed, as required by Section 51.806 of the Texas Government Code.

C. A cover sheet must accompany every transmission and shall clearly identify (1) the sender; (2) the document(s) being transmitted; (3) the number of pages; and (4) the name of the Clerk or Deputy Clerk, if any, to whose attention

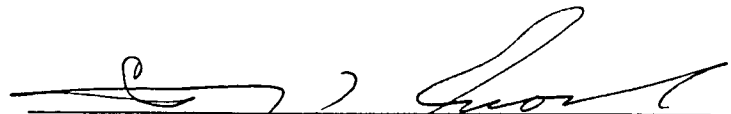
the document is directed.

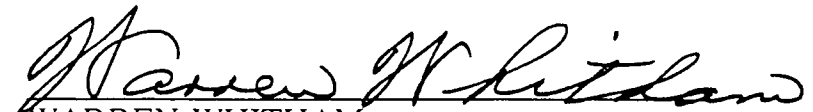
D. The Court will not be responsible for events which disrupt, impair, or render impossible the receipt of documents transmitted by facsimile machine. For inbound transmission service, the obligation is on the sender to ensure that the documents have arrived safely and completely in the Court. The clerk's office will verify by telephone that a document has arrived safely and completely, but shall not initiate the telephone call. If a document electronically transmitted is not complete or is otherwise illegible, the Clerk shall nonetheless file it and bring it to the attention of the Court. The incompleteness or illegibility of a document may be grounds for denying the motion or disregarding the document.

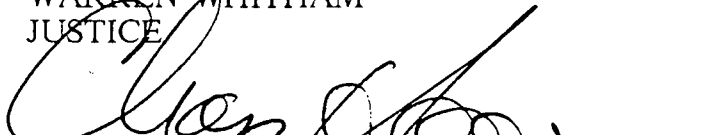
E. The Clerk shall maintain the facsimile machine for transmission during normal business hours, Monday through Friday (other than legal holidays as that term is defined by Texas Revised Civil Statutes article 4591), 8:00 a.m. to 5:00 p.m. Arrangements may be made with the clerk's office to maintain the facsimile machine during nonbusiness hours, if those arrangements are made, in writing, in advance during business hours. If no such arrangements are made, anything transmitted during nonbusiness hours will be considered filed as of the date next following the date of receipt that is not a Saturday, Sunday, or legal holiday, as that term is defined by Texas Revised Civil Statutes article 4591. The sender is responsible for determining if there are any changes in normal business hours.

It is therefore **ORDERED** that this system for electronic filing of documents in the Court of Appeals, Fifth District of Texas at Dallas, be, and the same is, adopted, effective upon approval by the Supreme Court of Texas; that a copy hereof shall be furnished to the Supreme Court of Texas for approval as provided by Section 51.807 of the Texas Government Code; and that upon approval by the Supreme Court of Texas the same be placed upon the Minutes of the Court of Appeals, Fifth District of Texas at Dallas.

SIGNED this the 26th of March, 1990.


CRAIG TRIVELY ENOCH
CHIEF JUSTICE



WARREN WHITHAM
JUSTICE

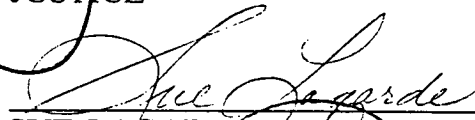

CHARLES BEN HOWELL
JUSTICE

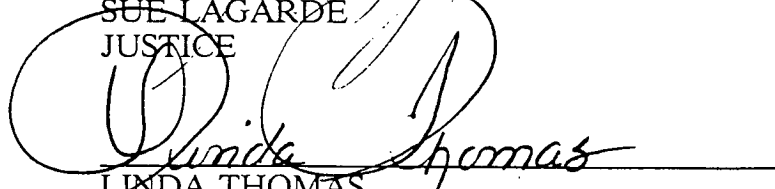

PAT McCLUNG
JUSTICE


ANNETTE STEWART
JUSTICE

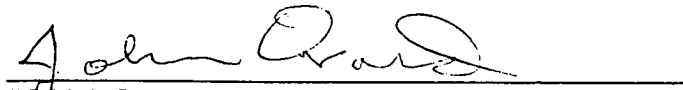

GORDON ROWE
JUSTICE

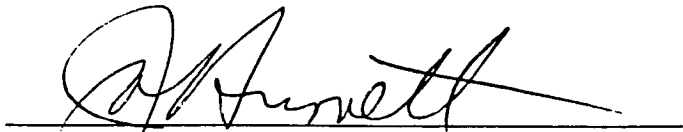

JAMES A. BAKER
JUSTICE

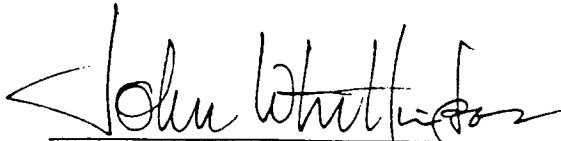

SUE LAGARDE
JUSTICE


LINDA THOMAS
JUSTICE


ED KINKEADE
JUSTICE


JOHN OVARD
JUSTICE


JOE BURNETT
JUSTICE



JOHN WHITTINGTON
JUSTICE